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October 26, 2018

By ECF

The Honorable Dora L. Irizarry
Chief United States District Judge
United States District Court for the Eastern District of New York
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Brooklyn, NY 11201

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Re: *United States v. Dan Zhong*
Criminal Docket No. 16-614 (DLI)

Dear Chief Judge Irizarry:

I write in connection with defendant Dan Zhong's pending motion for authorization to take Rule 15 depositions (Dkt. No. 147), and specifically to respond to the government's letter of October 15, 2018 (Dkt. No. 155). In its letter, the government – referencing defined terms that appear in its opposition to Mr. Zhong's Rule 15 motion (Dkt. No. 153) – informed the Court about the status of ongoing discussions between the government and counsel for Rilin Construction regarding (i) the eleven witnesses whose deposition the defense wishes to take pursuant to Rule 15, and (ii) some number of other "Rilin workers" whom the government apparently sought to have testify in the grand jury nearly three years ago. (*Id.* at 1).

The defense wishes to clarify that the question whether any of the individuals referenced in clause (ii) above would be available at trial has no bearing on the sole issue before the Court at this time, namely, whether the defense has demonstrated the "exceptional circumstances" necessary under Rule 15(a)(1) for the Court to authorize the depositions of the witnesses referenced in clause (i). The government has not moved under Rule 15 with respect to its potential witnesses; nor has it indicated any intention of doing so.

Accordingly, the Court should not delay its decision on Mr. Zhong's Rule 15 motion pending any further submission by the government. Indeed, given the fast-approaching January 7, 2019 trial date and the fully-briefed status of that motion, the defense respectfully requests that the Court issue its decision at the earliest possible time, in order to allow the parties to navigate the significant (but manageable) logistical challenges associated with any depositions the Court might authorize, and still have sufficient time to prepare for trial.

Respectfully submitted,

/s/ Dietrich L. Snell

Dietrich L. Snell

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